

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 04-888 LH
vs.)	
)	
DAVID PETTIGREW,)	
)	
Defendant.)	

MOTION TO DISMISS COUNTS 3 AND 5

COMES NOW the United States of America and moves this Court to dismiss Counts 3 and 5 of Superseding Indictment No. 04-888 charging **DAVID PETTIGREW** with Assault with A Dangerous Weapon. As grounds for this Motion, plaintiff states that the specific intent requirement of Assault with A Dangerous Weapon may not be supported due to the Defendant's blood alcohol content of 0.24. Dismissal of Counts 3 and 5 as to defendant **DAVID PETTIGREW** is appropriate.

Respectfully submitted,

DAVID C. IGLESIAS
United States Attorney

Electronically filed 9/27/2004
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I HEREBY CERTIFY that a true
copy of the foregoing pleading
was faxed to opposing
counsel of record this 27th
day of September, 2004.

/s/

Samuel L. Winder
Assistant United States Attorney

